

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KENNETH CHAPPLE	§	
<i>Plaintiff</i>	§	
	§	
v.	§	CIVIL ACTION NO. 4:10-00130
	§	
	§	
NATIONAL SHIPPING COMPANY OF	§	IN PERSONEM AND
SAUDI ARABIA; MIDEAST SHIP	§	IN REM PER F.R.C.P. 9 (h)
MANAGEMENT LIMITED	§	
<i>IN PERSONAM</i> , and M/V SAUDI	§	
HOFUF, <i>IN REM</i>	§	
<i>Defendants</i>	§	

PLAINTIFF'S FIRST AMENDED ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW KENNETH CHAPPLE, Plaintiff herein and files this cause of action against Defendants NATIONAL SHIPPING COMPANY OF SAUDI ARABIA; MIDEAST SHIP MANAGEMENT LIMITED and M/V SAUDI HOFUF, *in rem*, and for cause of action will show the Court as follows:

I.
PARTIES

1. Plaintiff is KENNETH CHAPPLE, a citizen of the United States and a resident of Houston, Harris County, Texas.
2. Defendant NATIONAL SHIPPING COMPANY OF SAUDI ARABIA ("NSCSA"), is a (non U.S.) foreign corporation headquartered in Dubai, United Arab Emirates, whose address is 10th Floor, Al Musalla Towers, Khalid Bin Walid Road, Bur Dubai, P.O. Box 32890-Dubai (Saudi Arabia). It is now and all times material herein, the owner, operator and/or charterer of the offshore supply (freight ship) vessel SAUDI HOFUF ("Vessel").

3. Defendant MIDEAST SHIP MANAGEMENT LIMITED (“Mideast”) is also a foreign (non U.S.) corporation. At all times material it was and now is the vessel manager and/or the employer of the crew of the “Vessel”. Defendants may each be served with summons by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process including waiver of service per F.R.Civ.P. 4 (d)(1)¹ and/or 4 (f)(h)(2) et seq. at 10th Floor, Al Musalla Towers, Khalid Bin Walid Road, Bur Dubai, P.O. Box 32890-Dubai, United Arab Emirates.

4. Defendant M/V SAUDI HOFUF, *IN REM* (“Vessel”) is an offshore supply vessel. It regularly comes into and out of the Port of Houston in the United States of America and the Southern District of Texas. The vessel may be arrested with a warrant of seizure into any port of the United States of America.

Defendants have both been submitted “Waivers of Summons of Service”, in the event either or both refuse to do so, Defendants each may be served with summons by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process per F.R.Civ.P. 4 (d)(1)² and 4 (f)(h)(2) et seq. at 10th Floor, Al Musalla Towers, Khalid Bin Walid Road, Bur Dubai, P.O. Box 32890-Dubai, United Arab Emirates.

II. JURISDICTION & VENUE

5. This Court has original jurisdiction under 28 U.S.C. § 1331, Federal Question, *infra*, and/or § 1332 complete diversity of citizenship exclusive of interest and cost, as this action arises under 33 U.S.C. 901, § 905 (b) for the negligence of the vessel, et seq., i.e. the “Longshore and

¹ FRCivP 4(d)(1) Requesting a waiver of service.

² FRCivP 4(d)(1) Requesting a waiver of service.

Harbor Workers' Compensation Act." The matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs; and this action is brought by a Plaintiff citizen of the State of Texas and the U.S.A. against citizens both of which are incorporated in a foreign country and domiciled in a foreign country.

6. Venue is proper in the Houston Division of the Southern District of Texas per 28 U.S.C. § 1391(b), (c) and (d) as, *inter alia*, Plaintiff resides in the Houston Division; the injuries, causes of action, events giving rise to suit took place in the Houston Division; a substantial number of material witnesses and documents are located in the Houston Division, and the vessel may be arrested and seized in the Houston Division during its regular voyages into and out of the Port of Houston, Texas.

III. CAUSES OF ACTION

7. On or about November 12, 2009, Plaintiff Kenneth Chapple was working in the Port of Houston within this District and Division on the M/V SAUDI HOFUF (the "vessel") as a longshoreman. While in the course and scope of his work securing cargo on the vessel he was injured when the vessel's equipment he and his gang were negligently furnished and instructed to use by Defendants and which was provided by Defendants, gave way causing Plaintiff to fall twice onto the vessel's deck. Plaintiff suffered serious, permanent and disabling injuries to his left knee and other injuries to his body generally. All such injuries were proximately caused by the negligence of Defendants' vessel, and Defendants jointly and severally, including acts and/or omissions of their employees Captain, officers, crew, and/or directors all acting at all times material herein in the course and scope of their employment under Respondeat superior for which Defendants are jointly and severally liable.

8. Defendants owed Plaintiff a duty, which they each breached, to exercise reasonable care with respect to the safety of Plaintiff relative to any equipment, specifically the securing of cargo in an area of the ship that remained within the control of Defendants. Further, Defendants both had a duty to inspect, repair, and maintain in safe working condition all appurtenances, gear or other equipment of the vessel furnished by Defendants and/or required by Defendants to be used specifically the above bar used to secure Defendants' cargo. Defendants both breached their duties when, inter alia, they negligently instructed Plaintiff to use, and provided Plaintiff with their above defective equipment and pipe and/or bar and further failed to warn Plaintiff of said hazards and they failed to provide Plaintiff a reasonably safe place in which to work.

IV. DAMAGES

9. Plaintiff, as a proximate result of negligence of all Defendants above, negligence, jointly and severally, sues for his:

- a. Pain and suffering and mental anguish in the past, in the present and in the future;
and
- b. His lost past earnings and diminishment and loss of future earning capacity; and
- c. Physical impairment in the past and in the future; and
- d. Disfigurement in the past and in the future; and
- e. Reasonable and necessary medical bills, treatment and hospital including diagnoses and therapy treatment in the past and those which in reasonable medical probability he will pay and incur liability to pay in the future.

VII. PRAYER

WHEREFORE, Plaintiff prays that Defendants either: (a) waive service of Summons per Rule 4; (d) and/or be summoned to appear and appear and Plaintiff prays further that:

1. Summons for service be issued in personem upon Defendants NATIONAL SHIPPING COMPANY OF SAUDI ARABIA and MIDEAST SHIP MANAGEMENT LIMITED if Waiver of Summons is refused; and/or
2. No Warrant of Seizure of the vessel SAUDI HOFUF will be issued unless the above named Defendants refuse to agree to waive Summons. If waiver is refused, Warrant for the arrest and seizure of the vessel SAUDI HOFUF issue and that all persons claiming any interest in the vessel for the arrest of to appear and answer these matters.
3. That Plaintiff prays that upon final hearing and trial on the merits hereof that Plaintiff be awarded judgment against Defendants, jointly and severally, in the sum of ONE MILLION DOLLARS (\$1,000,000.00) for all of his above actual damages per F.R.C.P.; that Plaintiff be awarded all costs of Court and pre- and post-judgment interest at the maximum legal rate beginning for a period of six months after the date of injury until paid; and for any and all other relief to which Plaintiff may show himself to be justly entitled.

Respectfully submitted,

LAW OFFICES OF NEWTON B. SCHWARTZ, SR.

/s/ NEWTON B. SCHWARTZ, SR.
Newton B. Schwartz, Sr. (Attorney-In-Charge)

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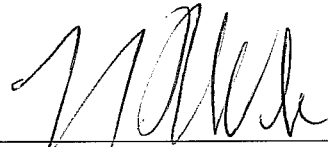
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VERIFICATION

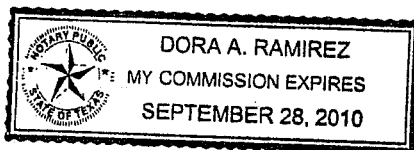
STATE OF TEXAS §
 §
HARRIS COUNTY §

BEFORE ME, the undersigned Notary Public, on this day personally appeared NEWTON B. SCHWARTZ, SR., who after being duly sworn, stated under oath that he has read the attached First Amended Complaint; the facts stated within are true and correct. Where based on information, including from the Plaintiff client, such are believed to be true and correct.



NEWTON B. SCHWARTZ, SR.

SWORN TO and SUBSCRIBED before me by NEWTON B. SCHWARTZ, SR. on this 18th day of January, 2010.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission expires: 9/28/2010